

## **DRAFT-for EPA INTERNAL DISTRIBUTION ONLY**



## **THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)**

### **NEPA Background**

The National Environmental Policy Act (NEPA) [42 U.S.C. 4321 et seq.] was signed into law on January 1, 1970. The Act establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment, and it provides a process for implementing these goals by federal agencies. The Act also establishes the Council on Environmental Quality (CEQ).

### **NEPA Requirements**

NEPA requires federal agencies to consider the environmental impacts of proposed federal actions. There are three levels of analysis depending on whether or not a proposed action could significantly affect the environment. These three levels include: categorical exclusion determination (CATEX); preparation of an environmental assessment/finding of no significant impact (EA/FONSI); and preparation of an environmental impact statement (EIS) and Record of Decision (ROD).

At the first level, a proposed action may be categorically excluded from a detailed environmental analysis if it meets certain criteria which a federal agency has previously determined as having no significant environmental impact. A number of agencies have developed lists of actions which are normally categorically excluded from environmental evaluation under their NEPA regulations.

At the second level of analysis, a federal agency prepares a written EA to determine whether or not a federal action would significantly affect the environment. If the action's impacts are not significant, the agency issues a finding of no significant impact (FONSI). The FONSI may

address measures which an agency will take to reduce (mitigate) potentially significant impacts.

If the EA determines that the environmental consequences of a proposed federal action may be significant, an EIS is prepared. An EIS is a more detailed evaluation of the environmental effects of the proposed action and alternatives. If a federal agency anticipates that an action may significantly impact the environment, or if a project is environmentally controversial, a federal agency may choose to prepare an EIS without having to first prepare an EA.

### **EPA's Responsibilities Under NEPA**

The U.S. Environmental Protection Agency, like other federal agencies, prepares and reviews NEPA documents. However, EPA has a unique responsibility in the NEPA review process. Under Section 309 of the Clean Air Act, EPA is required to review and publicly comment on the environmental impacts of all major federal actions. EPA's comments are part of the public record and a summary of these comments are published in the Federal Register.

EPA's role incorporates the following responsibilities:

- Review all major proposed federal actions subject to NEPA and seek avoidance and mitigation of adverse environmental impacts;
- Coordinate with federal agencies to maximize environmental protection of proposed projects; and
- Foster inter-agency partnerships to promote environmental stewardship in planning and implementing federal actions.

EPA rates each draft EIS based on the project's environmental impacts as well as the document's adequacy under NEPA. This rating system provides a basis upon which EPA makes recommendations to the lead agency for improving the project or the document. If EPA determines that the action is environmentally unsatisfactory, it is required under Section 309 to refer the matter to CEQ. CEQ reviews the project's impacts and determines the appropriate action.

period in which the lead agency solicits comments from the public or other interested parties. The lead agency must take into consideration all comments received from the public and other parties on NEPA documents during this scoping period.

### EPA Contact Information

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### Public Participation in the NEPA Process

The public has an important role throughout the NEPA process, particularly during scoping, in providing input on what issues should be addressed in an EIS and in commenting on the findings in an agency's NEPA documents. Scoping is the time

